

ICMA RETIREMENT CORPORATION
GOVERNMENTAL MONEY PURCHASE PLAN & TRUST
AMENDMENT FOR POST-EGTRRA LEGISLATIVE AND REGULATORY CHANGES

Pursuant to Section 14.05 of the ICMA Retirement Corporation Governmental Money-Purchase Plan & Trust (the “Plan”) and Section 5.01 of Revenue Procedure 2005-16, 2005-1 C.B. 674, ICMA Retirement Corporation, as Plan Administrator, hereby adopts this Amendment on behalf of all adopting Employers to add a new Appendix A as follows, effective as provided therein.

Appendix A

**ARTICLE I
PREAMBLE**

1.01 Applicability. This Appendix memorializes the operation of the Plan in accordance with the following legislative and regulatory items.

(a) Pension Protection Act of 2006;

(b) Final Treasury Regulations under Code section 415;

(c) Emergency Economic Stabilization Act of 2008;

(d) Worker, Retiree, and Employer Recovery Act of 2008;

(e) Katrina Emergency Tax Relief Act of 2005; and

(f) Gulf Opportunity Zone Act of 2005.

1.02 Superseding of Inconsistent Provisions. This Appendix supersedes the provisions of the Plan and Adoption Agreement to the extent those provisions are inconsistent with the provisions of this Appendix.

1.03 Construction. Except as otherwise provided herein, any reference to “Section” in this Appendix refers only to sections within this Appendix and is not a reference to the Plan. The Article and Section numbering in this Appendix is solely for purposes of this Appendix and does not relate to any Plan article, section, or other numbering designations.

**ARTICLE II
PENSION PROTECTION ACT OF 2006**

2.01 Background. On August 17, 2006, the Pension Protection Act, Pub. L. No. 109-280 (“PPA”), became law. It amended the Code to provide for a number of changes with regard to Code section 401(a) plans. This Article incorporates the relevant provisions of PPA into the Plan.

2.02 Required Notice for Participant Distributions. With respect to any distribution notice and election form that is, under the terms of the Plan, to be delivered 90 days before the date as of which a distribution is to be made, the window for giving Participants such distribution notices and election forms shall be extended to 180 days before the date as of which a distribution is to commence. This Section 2.02 shall be effective for calendar years beginning after December 31, 2006.

2.03 Rollover by a Non-Spouse Designated Beneficiary.

(a) Unless otherwise elected by the Employer, for Plan Years beginning after December 31, 2006 but on or before December 31, 2009, a non-spouse Beneficiary who qualifies as a “designated beneficiary” under Code section 401(a)(9)(E) may establish an individual retirement plan that will be treated as an Inherited IRA pursuant to the

provisions of Code section 402(c)(11) into which all or a portion of a death benefit distribution from this Plan can be transferred directly. A trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a designated beneficiary.

- (b) Notwithstanding the election made in subsection (a), for Plan Years beginning after December 31, 2009, a non-spouse Beneficiary who qualifies as a “designated beneficiary” under Code section 401(a)(9)(E) may establish an individual retirement plan that will be treated as an Inherited IRA pursuant to the provisions of Code section 402(c)(11) into which all or a portion of a death benefit distribution from this Plan can be transferred directly. A trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a designated beneficiary.
- (c) Notwithstanding anything herein to the contrary, a death benefit distribution shall not be eligible for transfer to an Inherited IRA to the extent such distribution is a required minimum distribution under Code section 401(a)(9).

2.04 In-Service Distributions. If elected by the Employer, in-service distributions may be made beginning after June 1, 2009 to a Participant who has attained normal retirement age or an alternate age elected by the Employer, and who has not yet incurred a severance from employment.

Important Note to Employers: The earliest date that a Plan may allow for in-service distributions is the earlier of (i) age 62, and (ii) the Normal Retirement Age for the Plan.

2.05 Normal Retirement Age. The age elected by the Employer in the Adoption Agreement.

Important Note to Employers: Normal Retirement Age is significant for determining the earliest date at which the Plan may allow for in-service distributions. Normal Retirement Age also defines the latest date at which a Participant must have a fully vested right to his/her Account. There are IRS rules that limit the age that may be specified as the Plan's Normal Retirement Age. The Normal Retirement Age cannot be earlier than what is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed. An age under 55 is presumed not to satisfy this requirement, unless the Commissioner of Internal Revenue determines that the facts and circumstances show otherwise. Whether an age between 55 and 62 satisfies this requirement depends on the facts and circumstances, but an Employer's good faith, reasonable determination will generally be given deference. A special rule, however, applies in the case of a plan where substantially all of the participants in the plan are qualified public safety employees within the meaning of section 72(t)(10)(B) of the Code, in which case an age of 50 or later is deemed not to be earlier than the earliest age that is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed.

2.06 Distributions for Health and Long-Term Care Insurance for Public Safety Officers.

- (a) If elected by the Employer, for Plan Years beginning after December 31, 2006, Eligible Retired Public Safety Officers may elect after separation from service to have up to \$3,000 distributed tax-free annually from the Plan in order to pay for Qualified Health Insurance Premiums for an accident or health plan (including a self-insured plan) or a qualified long-term care insurance contract. The Plan shall make such distributions directly to the provider of the accident or health plan or qualified long-term care insurance contract.
- (b) The term “Eligible Retired Public Safety Officer” means an individual who, by reason of disability or attainment of normal retirement age, is separated from service as a Public Safety Officer with the Employer who maintains the eligible retirement plan from which distributions pursuant to this Section are made. The term “Public Safety Officer” has the same meaning given such term by section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968.
- (c) The term “Qualified Health Insurance Premiums” means premiums for coverage for the Eligible Retired Public Safety Officer, his spouse, and dependents, by an accident or health insurance plan or qualified long-term care insurance contract (as defined in Code section 7702(B)).

- 2.07 Rollovers to Roth IRAs.** Effective for distributions after December 31, 2007, a Participant may elect to have any portion of an Eligible Rollover Distribution paid directly to a Roth IRA described in Code section 408A.

ARTICLE III
FINAL SECTION 415 REGULATIONS

- 3.01 Background.** On April 5, 2007, Treasury issued final regulations under section 415 of the Code. The regulations amend the permitted definitions of Compensation for purposes of determining maximum permitted contributions. This Article incorporates the relevant provisions of the final 415 regulations into the Plan.
- 3.02 Relationship Between “Compensation” and “Earnings”.** One of the limitations on contributions under section 415 of the Code is 100% of Compensation. This Article modifies the definition of Compensation to reflect the final 415 regulations. It does not modify the definition of Earnings, which is the term used under the Plan to determine Plan contributions and is not affected by this Article.
- 3.03 Effective Date.** This Article is effective for Limitation Years that begin more than ninety (90) days after the close of the first regular legislative session of the legislative body with authority to amend the Plan that begins on or after July 1, 2007.
- 3.04 Definition of Compensation.**
- (a) **Generally.** For purposes of Article V of the Plan, Compensation includes a Participant’s wages, salaries, fees for professional services, and other amounts received (without regard to whether an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer, to the extent that the amounts are includible in gross income (or to the extent amounts would have been received and includible in gross income but for an election under Code section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b)). These amounts include, but are not limited to, bonuses, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan as described in Treas. Reg. section 1.62-2(c).
 - (b) **Not Included.** Notwithstanding the foregoing, Compensation does not include:
 - (i) Contributions (other than elective contributions described in Code section 402(e)(3), 408(k)(6), 408(p)(2)(A)(i), or 457(b)) made by the Employer to a plan of deferred compensation (including a simplified employee pension described in Code section 408(k) or a simple retirement account described in Code section 408(p), and whether or not qualified) to the extent that the contributions are not includible in the gross income of the Participant for the taxable year in which contributed. In addition, any distributions from a plan of deferred compensation (whether or not qualified) are not considered as Compensation for Code section 415 purposes, regardless of whether such amounts are includible in the gross income of the Participant when distributed.
 - (ii) Other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the gross income of the Participant and are not salary reduction amounts that are described in Code section 125).
 - (iii) Other items of remuneration that are similar to the items listed in subparagraph (i) or (ii) of this subsection (b).
- 3.05 Compensation Paid After Severance from Employment.** Compensation shall be adjusted as set forth herein for the following types of compensation paid after a Participant’s severance from employment (as determined under section 415 of the Code and the regulations thereunder) with the Employer. Any payment that is not described in subsection (a), (b), (c), or (d) of this Section is not considered Compensation within the meaning of section 415 of the Code if paid after severance from employment with the Employer.
- (a) **Regular Pay.** Compensation shall include regular pay after severance of employment if:

- (i) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments;
- (ii) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer; and
- (iii) Such amounts are paid:
 - 1. for Limitation Years beginning before January 1, 2009, within 2½ months after severance from employment with the Employer maintaining the Plan; and
 - 2. for Limitation Years beginning on or after January 1, 2009, by the later of 2½ months after severance from employment with the Employer maintaining the Plan or by the end of the calendar year that includes the date of such severance from employment.

(b) **Leave Cashouts.**

- (i) For Limitation Years beginning before January 1, 2009, Compensation shall include payment for unused accrued bona fide sick, vacation, or other leave, but only if (i) the Participant would have been able to use the leave if employment had continued, (ii) such amounts are paid within 2½ months after severance from employment with the Employer maintaining the Plan, and (iii) such amounts would be included in Compensation if the individual had continued to perform services for the Employer.
- (ii) For Limitation Years beginning on or after January 1, 2009, Compensation shall include payment for unused accrued bona fide sick, vacation, or other leave, but only if (i) the Participant would have been able to use the leave if employment had continued, (ii) such amounts are paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or by the end of the calendar year that includes the date of such severance from employment, and (iii) such amounts would be included in Compensation if the individual had continued to perform services for the Employer.

(c) **Salary Continuation Payments for Military Service Participants.**

- (i) Compensation includes payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code section 414(u)(1)) to the extent:
 - 1. Those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service; and
 - 2. Those payments would be included in Compensation if the individual had continued to perform services for the Employer rather than entering qualified military service.
- (ii) Notwithstanding the foregoing, Compensation does not include distributions from this Plan to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code section 414(u)(1)).

(d) **Salary Continuation Payments for Disabled Participants.**

- (i) Compensation includes amounts paid to a Participant who is permanently and totally disabled (as defined in Code section 22(e)(3)) to the extent:

1. Salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable period or the Participant was not a highly compensated employee (as defined in Code section 414(q)) immediately before becoming disabled.
 2. Those amounts would be included in Compensation if the Participant had continued to perform services for the Employer.
- (ii) Notwithstanding the foregoing, Compensation does not include distributions from this Plan to a Participant who is permanently and totally disabled (as defined in Code section 22(e)(3)).

3.06 Administrative Delay Rule Does Not Apply. Compensation for a Limitation Year shall not include amounts earned but not paid during the Limitation Year solely because of the timing of pay periods and pay dates.

3.07 Definition of Annual Additions. The Plan's definition of "Annual Additions" is modified as follows:

- (a) **Restorative Payments.** Annual Additions for purposes of Code section 415 shall not include restorative payments. For this purpose, restorative payments are payments made to restore losses to a plan resulting from actions by a fiduciary for which there is reasonable risk of liability for breach of a fiduciary duty under applicable federal or state law, where Participants who are similarly situated are treated similarly with respect to the payments. Generally, payments to a defined contribution plan are restorative payments only if the payments are made in order to restore some or all of the plan's losses due to an action (or a failure to act) that creates a reasonable risk of liability for such a breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the plan). This includes payments to a plan made pursuant to a court-approved settlement to restore losses to a qualified defined contribution plan on account of the breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the plan). Payments made to a plan to make up for losses due merely to market fluctuations and other payments that are not made on account of a reasonable risk of liability for breach of a fiduciary duty are not restorative payments and generally constitute contributions that give rise to Annual Additions.
- (b) **Other Amounts.** Annual Additions for purposes of Code section 415 shall not include (i) the direct transfer of a benefit or employee contributions from a qualified plan to this Plan; (ii) rollover contributions (as described in Code sections 401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)); (iii) repayments of loans made to a Participant from the Plan; (iv) repayments of amounts described in Code section 411(a)(7)(B) (in accordance with Code sections 411(a)(7)(C)) and 411(a)(3)(D) or repayment of contributions to a governmental plan (as defined in Code section 414(d)) as described in Code section 415(k)(3), as well as Employer restorations of benefits that are required pursuant to such repayments; (v) Employee Contributions to a qualified cost of living arrangement within the meaning of Code section 415(k)(2)(B); (vi) catch-up contributions made in accordance with section 414(v) and §1.414(v)-1 and (vii) excess deferrals that are distributed in accordance with §1.402(g)-1(e)(2) or (3).
- (c) **Date of Employer Contributions.** Notwithstanding anything in the Plan to the contrary, Employer Contributions are treated as credited to a Participant's account for a particular Limitation Year only if the contributions are actually made to the plan no later than the 15th day of the tenth calendar month following the end of the calendar year or fiscal year (as applicable, depending on the basis on which the Employer keeps its books) with or within which the particular Limitation Year ends.

3.08 Change of Limitation Year. The Limitation Year may only be changed by a Plan amendment. Furthermore, if the Plan is terminated effective as of a date other than the last day of the Plan's Limitation Year, then the Plan is treated as if the Plan had been amended to change its Limitation Year.

3.09 Excess Annual Additions. Notwithstanding any provision of the Plan to the contrary, if the Annual Additions (within the meaning of Code section 415) are exceeded for any Participant, then the Plan may only correct such excess in

accordance with the Employee Plans Compliance Resolution System (“EPCRS”) as set forth in Revenue Procedure 2008-50, 2008-35 I.R.B. 464, or any superseding guidance, including, but not limited to, the preamble of the final Code section 415 regulations.

3.10 Aggregation and Disaggregation of Plans.

- (a) For purposes of applying the limitations of Code section 415, all defined contribution plans (without regard to whether a plan has been terminated) ever maintained by the Employer (or a “predecessor employer”) under which the Participant receives Annual Additions are treated as one defined contribution plan. The “Employer” means the Employer that adopts this Plan and any other entity which the Employer determines, based on a reasonable, good faith interpretation of existing law in accordance with Notice 89-23, 1989-1 C.B. 654, as modified by Notice 96-64, 1996-2 C.B. 229, should be aggregated for purposes of applying the limitations of Code section 415. For purposes of this Section:
 - (i) A former employer is a “predecessor employer” with respect to a Participant if the Employer maintains a plan under which the Participant had accrued a benefit while performing services for the former employer, but only if that benefit is provided under the plan maintained by the Employer. For this purpose, the formerly affiliated plan rules in Treas. Reg. section 1.415(f)-1(b)(2) apply as if the Employer and predecessor employer constituted a single employer under the rules described in Treas. Reg. section 1.415(a)-1(f)(1) and (2) immediately prior to the cessation of affiliation (and as if they constituted two, unrelated employers under the rules described in Treas. Reg. section 1.415(a)-1(f)(1) and (2) immediately after the cessation of affiliation) and cessation of affiliation was the event that gives rise to the predecessor employer relationship, such as a transfer of benefits or plan sponsorship.
 - (ii) With respect to an Employer, a former entity that antedates the Employer is a “predecessor employer” with respect to a Participant if, under the facts and circumstances, the Employer constitutes a continuation of all or a portion of the trade or business of the former entity.
- (b) **Midyear Aggregation.** Two or more defined contribution plans that are not required to be aggregated pursuant to Code section 415(f) and the Treasury Regulations thereunder as of the first day of a Limitation Year do not fail to satisfy the requirements of Code section 415 with respect to a Participant for the Limitation Year merely because they are aggregated later in that Limitation Year, provided that no Annual Additions are credited to the Participant’s account after the date on which the plans are required to be aggregated.

ARTICLE IV DEFINITION OF EARNINGS

4.01 Earnings Paid After Severance from Employment. Earnings for purposes of allocations under the Plan shall not include amounts paid after a Participant’s severance from Employment with the Employer except as provided in this Section.

- (a) **Leave Cashouts.** Earnings shall include payment for unused accrued bona fide sick, vacation, or other leave, but only if (i) the Participant would have been able to use the leave if employment had continued, and (ii) such amounts are paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or by the end of the calendar year that includes the date of such severance from employment.
- (b) **Regular Pay.** Earnings shall include regular pay after severance from employment if:
 - (i) The payment is included in the Participant’s W-2 earnings;
 - (ii) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer; and

- (iii) Such amounts are paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or by the end of the calendar year that includes the date of such severance from employment.

Notwithstanding anything to the contrary in this subsection (b), unless the Employer has specifically elected to include overtime compensation and bonuses in Earnings, Earnings shall exclude overtime compensation and bonuses paid after severance from employment.

- (c) **Effective Date.** This Article is effective for Plan Years beginning on or after January 1, 2009. Notwithstanding anything to the contrary in this Article, for Plan Years beginning before January 1, 2009, the amounts specified in subsections (a) and (b) of this Section must be paid within 2½ months after severance from employment with the Employer maintaining the Plan.

ARTICLE V EMERGENCY ECONOMIC STABILIZATION ACT OF 2008

- 5.01 Background.** On October 3, 2008, the Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343 (“EESA”), became law. With regard to retirement plans, EESA generally permits plans to allow repayments of certain prior qualified distributions for home purchases for participants affected by certain 2008 Midwestern severe storms, tornadoes, and flooding and to permit repayments of prior qualified distributions for home purchases. This Article incorporates the relevant provisions of EESA into the Plan.
- 5.02 Qualified Disaster Recovery Assistance Distributions and Repayment Thereof.** The provisions relating to qualified disaster recovery assistance distributions and repayment thereof set forth in section 702 of EESA shall apply to the Plan.
- 5.03 Repayment of Prior Qualified Distributions for Home Purchases to Plan.** The provisions relating to repayment of prior qualified distributions for home purchases set forth in section 702 of EESA shall apply to the Plan.

ARTICLE VI WORKER, RETIREE, AND EMPLOYER RECOVERY ACT OF 2008

- 6.01 Background.** On December 23, 2008, the Worker, Retiree, and Employer Recovery Act of 2008, Pub. L. No. 110-458 (“WRERA”), became law. WRERA amended Code section 401(a)(9) to suspend required minimum distributions for 2009. It is also possible that legislation will be enacted in the future that suspends required minimum distributions for 2010 or a later year. This Article incorporates the relevant provisions of WRERA into the Plan and describes the Plan terms that will apply in the event that required minimum distributions are suspended in a year subsequent to 2009.
- 6.02 Application of Minimum Distribution Requirements.** The minimum distribution requirements of section 401(a)(9) of the Code shall only apply to the Plan to the extent that such requirements are applicable by law for a year.
- 6.03 Special Rule for Scheduled Installment Payments.** All installment payments scheduled to be distributed to a Participant prior to the effective date of a suspension of the required minimum distribution provisions of Code section 401(a)(9) shall be distributed as scheduled unless the Participant affirmatively elects to have the payments stopped. Notwithstanding the foregoing, for purposes of this Section 6.03, the effective date of the suspension of the required minimum distribution provisions for 2009 shall be deemed January 6, 2009.

ARTICLE VII
KATRINA EMERGENCY TAX RELIEF ACT OF 2005
AND GULF OPPORTUNITY ZONE ACT OF 2005

- 7.01 Background.** On September 23, 2005, the Katrina Emergency Tax Relief Act of 2005, Pub. L. No. 109-73 (“KETRA”), became law, and on December 21, 2005, the Gulf Opportunity Zone Act of 2005, Pub. L. No. 109-135 (“GOZA”), became law. Generally, KETRA and GOZA permit plans to allow repayments of certain prior qualified distributions for home purchases for participants affected by Hurricanes Katrina, Rita, and/or Wilma. This Article incorporates the relevant provisions of KETRA and GOZA into the Plan.
- 7.02 Qualified Hurricane Distributions and Repayment Thereof.** The provisions relating to qualified hurricane distributions and repayment thereof set forth in section 1400Q(a) of the Code shall apply to the Plan.
- 7.03 Repayment of Prior Qualified Distributions for Home Purchases to Plan.** The provisions relating to repayment of prior qualified distributions for home purchases set forth in Code section 1400Q(b) shall apply to the Plan.